

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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WALTER CEDENO and PEDRO  
MANZANARES, Individually and on behalf of  
all others similarly situated,

Plaintiffs,

-against-

**ORDER**

CV 08-1168 (LDW)(ARL)

HOME MORTGAGE DESK CORP. d/b/a  
HOME DESK and HMD MORTGAGE,  
MIKE THEODORAKIS and GEORGE L.  
BENNINGER,

Defendants.

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**LINDSAY, Magistrate Judge:**

Before the court is the defendants' request to compel the depositions of the named plaintiffs. The defendants contend that the depositions "will demonstrate conclusively that neither the named plaintiffs nor the putative class they seek to represent are similarly situated" and that the plaintiffs were exempt from minimum wage and overtime requirements. The plaintiffs object to the request as premature. The plaintiffs argue that the court should not order any class discovery pending conditional certification. The court agrees. It is clear from the defendants' application that they are seeking discovery that is directly related to the issue of class certification and thus, the request is premature. In addition, the defendants have not formally noticed the deposition. In the future, the defendants may not seek to compel any discovery that is not the subject of a formal request pursuant to the Federal Rule of Civil Procedure.

Dated: Central Islip, New York  
October 20, 2008

**SO ORDERED:**

\_\_\_\_\_/s/\_\_\_\_\_  
ARLENE R. LINDSAY  
United States Magistrate Judge